

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007017
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: July 02, 2015
County: Genesee-District 2

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10 After due notice, telephone hearing was held on July 02, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and his wife [REDACTED]. Participants on behalf of the Department included [REDACTED] as hearing facilitator and [REDACTED], the Claimant's case worker.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for Medical Assistance (MA) and Medicare Savings Program (MSP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant and his wife are ongoing Medical Assistance (MA) recipients.
2. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
3. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
4. The Claimant is eligible for Medical Assistance (MA) benefits with a \$ [REDACTED] patient deductible effective May 1, 2015.
5. On April 27, 2015, the Department received the Claimant's request for a hearing protesting their Medical Assistance (MA) and Medicare Savings Program (MSP) benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

A child is a fiscal and asset group of one. An adult's fiscal and asset group is:

- The adult for an L/H patient, a waiver patient or a Freedom to Work client.
- The adult and his spouse for all other customers. Department of Health and Human Services Bridges Eligibility Manual (BEM) 211 (January 1, 2015), p 5.

The Medicaid client who was in the hospital and/or long term care facility (LTC) in an hospital and/or long term care facility (L/H) month. Department of Health and Human Services Bridges Policy Glossary (BPG) (April 1, 2015), p 37.

The following cannot be fiscal or asset group members:

- FIP recipients.
- SSI recipients.
- Title IV-E recipients.
- Department wards.
- A person about whom information necessary to determine eligibility is refused. BEM 211, p4

Bridges excludes the amount of current SSA-issued SSI as income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2014), p 32.

The Claimant and his wife are ongoing adult MA recipients and receive Retirement, Survivors, and Disability Insurance (RSDI) benefits. The Department places them together in a MA benefit group of two as directed by BEM 211. A review of the Department's evidence reveals that in the past, the Claimant was an L/H patient, and that the Claimant and his wife were prior Supplemental Security Income (SSI) recipients. An adult L/H patient is placed in a group by himself and his income is not attributed to the community spouse. Furthermore, the income of a SSI recipient is excluded from the group's MA eligibility determination regardless of the group size as directed by BEM 503.

This Administrative Law Judge finds that the Claimant's current request for a hearing is timely only with respect to the granting of MA benefits to the Claimant and his wife as a group of two with a patient deductible.

The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] and his wife receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] for a total monthly countable income of \$ [REDACTED] rounded off to the dollar.

The Department did not provide a budget for MA benefits without a patient deductible. A review of the Department's exhibits reveals that the countable income attributable to the Claimant's MA benefit group exceeds the \$ [REDACTED] income limit to receive benefits commonly known as "full Medicaid" without a patient deductible. Department of Health and Human Services Reference Table Manual (RFT) 242 (May 1, 2015), p 1.

A review of Claimant's case reveals that the Department budgeted correct amount of income received by the Claimant and his wife. Claimant's "protected income level" is \$ [REDACTED] and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Health and Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Claimant has a \$ [REDACTED] deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined the Claimant's current level of Medical Assistance (MA) under the G2S category with a patient deductible.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLBM), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Health and Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2015), pp 2-3.

A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. BEM 165, p 1.

The Claimant testified that the Department has failed to issue any Medicare Savings Program (MSP) benefits towards his MA benefits. The Department concedes that the Claimant is eligible for MSP benefits since December 1, 2014.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined the Claimant's eligibility for Medicare Savings Program (MSP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the Claimant's eligibility for Medical Assistance (MA) with a patient deductible and **REVERSED IN PART** with respect to the Claimant's eligibility for the Medicare Savings Program (MSP).

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Claimant's eligibility for the Medicare Savings Program (MSP) as of December 1, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/7/2015**

Date Mailed: **7/7/2015**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

